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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,256	04/12/2000	Mylavarapu Venkatramesh	MTC 6462.1	6162

321 7590 12/05/2001

SENNIGER POWERS LEAVITT AND ROEDEL  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

EXAMINER

NELSON, AMY J

ART UNIT	PAPER NUMBER
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1638

13

DATE MAILED: 12/05/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/548,256

Applicant(s)

VENKATRAMESH ET AL.

Examiner

Amy Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2001 and 11 September 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) 1-70 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### **DETAILED ACTION**

Upon further consideration, the restriction requirement mailed 6/11/01 has been withdrawn in view of the following new restriction requirement.

#### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13, 17-19, 34-42, 46-48, and 70, drawn to construct comprising hydroxysteroid oxidase DNA, transformed host cell, transgenic plant, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
  - II. Claims 1-13, 17-19, 34-42, 46-48, and 70, drawn to construct comprising steroid reductase DNA, transformed host cell, transgenic plant, breeding method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.
  - III. Claims 1-13, 17-19, 34-42, 46-48, and 70, drawn to drawn to construct comprising HMGR DNA, transformed host cell, transgenic plant, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

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- IV. Claims 1-12, drawn to construct comprising sterol methyl transferase DNA, transformed host cell, and transgenic plant, classified in class 435, subclass 320.1, for example.
- V. Claims 1-12, drawn to construct comprising sterol acyltransferase DNA, transformed host cell, and transgenic plant, classified in class 435, subclass 320.1, for example.
- VI. Claims 1-12, drawn to construct comprising tocopheral methyl transferase DNA, transformed host cell, and transgenic plant, classified in class 435, subclass 320.1, for example.
- VII. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising hydroxysteroid oxidase DNA and steroid reductase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- VIII. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising hydroxysteroid oxidase DNA and tocopherol biosynthetic enzyme DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- IX. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising steroid reductase DNA and tocopherol biosynthetic enzyme DNA, breeding

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method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.

- X. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising hydroxysteroid oxidase DNA, steroid reductase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said DNA, and method of producing sterol or sterol ester with said DNA, classified in class 800, subclass 298, for example.
- XI. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising hydroxysteroid oxidase DNA and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XII. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising steroid reductase DNA and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XIII. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising hydroxysteriod oxidase DNA, steroid reductase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XIV. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to drawn to plant comprising hydroxysteroid oxidase DNA, HMGR DNA, and sterol methyltransferase DNA,

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breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

- XV. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to plant comprising steroid reductase DNA, HMGR DNA, and sterol methyl transferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XVI. Claims 13, 17-19, 34-42, 46-48, and 70, drawn to plant comprising hydroxysteroid oxidase DNA, steroid reductase DNA, HMGR DNA, and sterol methyl transferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XVII. Claims 14, 17-19, 43, and 46-48, drawn to plant comprising sterol acyltransferase DNA and hydroxysteroid oxidase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XVIII. Claims 14, 17-19, 43, and 46-48, drawn to plant comprising sterol acyltransferase DNA and steroid reductase DNA, breeding method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.

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- XIX. Claims 14, 17-19, 43, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, hydroxysteroid oxidase DNA, and steroid reductase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XX. Claims 14, 17-19, 43, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, hydroxysteroid oxidase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XXI. Claims 14, 17-19, 43, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, steroid reductase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.
- XXII. Claims 14, 17-19, 43, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said DNA, and method of producing sterol or sterol ester with said DNA, classified in class 800, subclass 298, for example.
- XXIII. Claims 14, 17-19, 43, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA and HMGR DNA, breeding method with said plant, and

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method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXIV. Claims 14, 17-19, 43, and 46-48, drawn to plant comprising sterol acyltransferase DNA, hydroxysteroid oxidase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXV. Claims 14, 17-19, 43, and 46-48, drawn to plant comprising sterol acyltransferase DNA, steroid reductase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXVI. Claims 14, 17-19, 43, and 46-48, drawn to plant comprising sterol acyltransferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXVII. Claims 14, 17-19, 43, and 46-48, drawn to plant comprising sterol acyltransferase DNA, hydroxysteroid oxidase DNA, HMGR DNA, and sterol methyltransferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXVIII. Claims 14, 17-19, 43, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, steroid reductase DNA, HMGR DNA, and sterol methyl



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transferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXIX. Claims 14, 17-19, 43, and 46-48, drawn to plant comprising sterol acyltransferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, HMGR DNA, and sterol methyl transferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXX. Claims 15, 17-19, 44, and 46-48, drawn to plant comprising tocopherol methyl transferase DNA and hydroxysteroid oxidase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXXI. Claims 15, 17-19, 44, and 46-48, drawn to plant comprising tocopherol methyl transferase DNA and steroid reductase DNA, breeding method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.

XXXII. Claims 15, 17-19, 44, and 46-48, drawn to drawn to plant comprising tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, and steroid reductase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

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XXXIII. Claims 15, 17-19, 44, and 46-48, drawn to drawn to plant comprising tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXXIV. Claims 15, 17-19, 44, and 46-48, drawn to drawn to plant comprising tocopherol methyl transferase DNA, steroid reductase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.

XXXV. Claims 15, 17-19, 44, and 46-48, drawn to drawn to plant comprising tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said DNA, and method of producing sterol or sterol ester with said DNA, classified in class 800, subclass 298, for example.

XXXVI. Claims 15, 17-19, 44, and 46-48, drawn to drawn to plant comprising tocopherol methyl transferase DNA and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXXVII. Claims 15, 17-19, 44, and 46-48, drawn to plant comprising tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, and HMGR DNA, breeding

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method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXXVIII. Claims 15, 17-19, 44, and 46-48, drawn to plant comprising tocopherol methyl transferase DNA, steroid reductase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XXXX. Claims 15, 17-19, 44, and 46-48, drawn to plant comprising tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XL. Claims 15, 17-19, 44, and 46-48, drawn to plant comprising tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, HMGR DNA, and sterol methyltransferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XLI. Claims 15, 17-19, 44, and 46-48, drawn to drawn to plant comprising tocopherol methyl transferase DNA, steroid reductase DNA, HMGR DNA, and sterol methyl transferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

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- XLII. Claims 15, 17-19, 44, and 46-48, drawn to plant comprising tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, HMGR DNA, and sterol methyl transferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XLIII. Claims 16, 17-19, 45, and 46-48, drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, and hydroxysteroid oxidase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XLIV. Claims 16, 17-19, 45, and 46-48, drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, and steroid reductase DNA, breeding method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.
- XLV. Claims 16, 17-19, 45, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, and steroid reductase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- XLVI. Claims 16, 17-19, 45, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, hydroxysteroid oxidase

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DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

XLVII. Claims 16, 17-19, 45, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, steroid reductase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said plant, and method of producing sterol or sterol ester therewith, classified in class 800, subclass 298, for example.

XLVIII. Claims 16, 17-19, 45, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, and tocopherol biosynthetic enzyme DNA, breeding method with said DNA, and method of producing sterol or sterol ester with said DNA, classified in class 800, subclass 298, for example.

XLIX. Claims 16, 17-19, 45, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

L. Claims 16, 17-19, 45, and 46-48, drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, and

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HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

- LI. Claims 16, 17-19, 45, and 46-48, drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, steroid reductase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- LII. Claims 16, 17-19, 45, and 46-48, drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, hydroxysteriod oxidase DNA, steroid reductase DNA, and HMGR DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- LIIL. Claims 16, 17-19, 45, and 46-48, drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, HMGR DNA, and sterol methyltransferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.
- LIV. Claims 16, 17-19, 45, and 46-48, drawn to drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, steroid reductase DNA, HMGR DNA, and sterol methyl transferase DNA, breeding method with said

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plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

LV. Claims 16, 17-19, 45, and 46-48, drawn to plant comprising sterol acyltransferase DNA, tocopherol methyl transferase DNA, hydroxysteroid oxidase DNA, steroid reductase DNA, HMGR DNA, and sterol methyl transferase DNA, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

LVI. Claims 20-23, 34-41, and 70, drawn to plant comprising DNA encoding polypeptide that affects biosynthesis of sterol or sterol ester, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

LVII. Claims 24, 25, 34-41, and 70, drawn to plant with elevated level of sitosterol, sitosterol ester, sitostanol or sitostanol ester, and reduced level of campesterol, campesterol ester, brassicasterol, brassicasterol ester, campestanol, campestanol ester, brassicastanol, or brassicastanol ester, breeding method with said plant, and method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

LVIII. Claims 26, 27, 34-41, and 70, drawn to plant with reduced level of campesterol, campesterol ester, brassicasterol, brassicasterol ester, campestanol, campestanol ester, brassicastanol, or brassicastanol ester, breeding method with said plant, and

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method of producing sterol or sterol ester with said plant, classified in class 800, subclass 298, for example.

LIX. Claims 28-30, 49-52, 68, and 69, drawn to sterol or sterol ester, classified in class 552, subclass 540, for example.

LX. Claims 31-33, drawn to method of lowering cholesterol in animal with sterol or sterol ester, classified in class 514, subclass 506, for example.

LXI. Claims 53-67, drawn to DNA encoding steroid reductase, construct, vector, and transformed host cell comprising said DNA, and method producing encoded protein with said host cell, classified in class 435, subclass 419, for example.

Claims 1-12 are generic to Groups I-XII and will be examined to the extent that they read on the elected invention.

Claims 13 and 42 are generic to Groups II, III, and VII-XVI, and will be examined to the extent that they read on the elected invention.

Claims 14 and 43 are generic to Groups XVII-XXIX, and will be examined to the extent that they read on the elected invention.

Claims 15 and 44 are generic to Groups XXX-XLII, and will be examined to the extent that they read on the elected invention.

Claims 16 and 45 are generic to Groups XLIII-LV, and will be examined to the extent that they read on the elected invention.



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Claims 17-19 and 46-48 are generic to Groups I-III, and VII-LV, and will be examined to the extent that they read on the elected invention.

Claims 34-41 and 70 are generic to I-III, VII-XVI, and LVI-LVIII, and will be examined to the extent that they read on the elected invention.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I-LVIII, and LXI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different plants and constructs of Groups I-LVIII and LXI comprise different DNAs, or combinations of DNAs, or have different phenotypic characteristics. Different searches would be required for the different combinations of DNAs and/or the different phenotypes. Also, different considerations would be required for examination of the plants with the different combinations of DNAs because different phenotypic results would be expected to be achieved upon expression of the different combinations of enzymes.

3. Inventions I-LVIII, LXI and LIX are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the constructs and transgenic plants of Groups I-LVIII, LXI differ in composition, structure, and function from the sterol or sterol ester of Group LIX, and therefore are not related.

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4. Inventions I-III, V-LVIII, LXI and LX are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the breeding method of Groups I-III, V- LVIII, and LX differs in starting materials, method steps, end products, and purpose from the method of lowering cholesterol in an animal of Group LX.

5. Inventions LIX and LX are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the sterol or sterol ester of Group LIX could be used in another method than the method of lowering cholesterol in an animal of Group LX, such as in a method of chemical synthesis.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, recognized divergent subject matter, and because the search required for one of the groups is not required for another, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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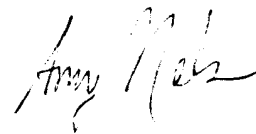
8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy J. Nelson whose telephone number is (703) 306-3218. The examiner can normally be reached on Monday-Friday from 8:00 AM - 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Paula Hutzell, can be reached at (703) 308-4310. The fax phone number for this Group is (703) 308-4242 or (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application, or if the examiner cannot be reached as indicated above, should be directed to the legal analyst, Yolanda Vines, whose telephone number is (703) 305-2365.



AMY J. NELSON, PH.D.  
PRIMARY EXAMINER

Amy J. Nelson, Ph.D.

November 20, 2001